

IN THE HIGH COURT OF JUDICATURE CHHATTISGARH
AT BILASPUR

W.P.No. 4879/2005

Petitioner

4944/05
P.P. No. 4944/05
Presented by Shri. K.S. Pawar
dated 21/9/05

Chhanulal Sharma, S/o Late Shri Mannulal Sharma, Aged about 45 years, Present working at Basic Middle School, Bemetara, Education District Bemetara, R/o Shitla Mandir Road, Bemetara, District - Bemetara (CG)

Versus

Respondents

RECEIVED COPY
21.9.05
G. S. A. G. BILASPUR

- 1) State of Chhattisgarh - Through the Secretary, School Education Department, DKS Bhawan, Raipur (C.G.)
- 2) The District Education Officer, Bemetara (CG)

WRIT PETITION UNDER ARTICLE 226/227 OF THE
CONSTITUTION OF INDIA

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक W.P.No. 4879 सन् 2005

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	07.10.2005 Shri P. Diwakar, Sr. Advocate with Shri P.R. Patankar, for the petitioner. Shri Arun Sao, Dy.G.A. for the State/ respondents No.1 and 2 on advance copy. I.A.No.8622/2005 This is an application for urgent hearing. The matter is taken up on Board. This interim application stands disposed of. W.P.No.3917/2005 The petitioner, who is presently working as an Assistant Teacher at Basic Middle School, Bemetara has challenged his order of transfer dated 31.8.2005 (Annexure P-1) by which he has been transferred from Bemetara to Primary School, Kapamari, Block Nawagarh. The submission of learned counsel for the petitioner is that according to the Policy dated 18.8.2005 (Annexure P-2) the petitioner should not have been transferred/relieved unless some reliever or a new person is posted in place of the petitioner. He also submits that there are 210 students in the institution whereas there are only six teachers. Therefore, if the petitioner is transferred, the number of teachers would be reduced to 5 and the same would be lesser than the required number of teachers to be provided according to the basic structure of the education policy of the Government. At last, learned counsel for the petitioner submits that the petitioner is the president of Bemeta Unit of Chhattisgarh Shikshak Sangh which is a recognized union, therefore, the petitioner being the office bearer should not have been transferred. Learned counsel also submits that the transfer is a mid-session transfer and two sons of the petitioner are prosecuting their studies in 12th and 11th in the schools of Bemetara and in the new place where he has been transferred, there is no school imparting higher education.	

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश - 2 -	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	I have heard learned counsel for the petitioner at length. In the opinion of this Court, these are not the grounds for interference in an order of transfer by a Court of law. It has been settled by the Apex Court that the person working on a transferable post cannot claim for retaining him at a particular place of posting for ever. The Apex Court while dealing with the matter of <u>Kendriya Vidyalaya Sangathan -V- Damodar Prasad Pandey, 2004 AIR SCW 5563</u> referring to the various decisions has observed vide para 4 as follows: "Transfer which is an incidence of service is not to be interfered with by the Courts unless it is shown to be clearly arbitrary or vitiated by mala fide or infraction of any prescribed norms of principles governing the transfer (See <u>Ambani Kanta Ray Vs. State of Orrissa</u>). Unless the order of transfer is vitiated by mala fide or is made in violation of operative guidelines, the Court cannot interfere with it. (See <u>Union of India Vs. S.L. Abbas</u>). Who should be transferred and posted where is a matter for the administrative authority to decide. Unless the order of transfer is vitiated by mala fide or is made in violation of operative any guidelines or rules the Courts should not ordinarily interfere with it. In <u>Union of India & others Vs. Janardan Debanath & another</u>, it was observed as follows: "No Government servant or employee of a public undertaking has any legal right to be posted forever at any one particular place or place of his choice since transfer of a particular employee appointed to the class or category of transferable posts from one place to another is not only an incident, but a condition of service, necessary too in public interest and efficiency in the public administration. Unless an order of transfer is shown to be an outcome of <i>mala-fide</i> exercise or stated to be in violation of statutory provisions prohibiting any such transfer, the Courts or the Tribunals normally cannot interfere with such orders as a matter of routine, as though they were the appellate authorities substituting their own decision for that of the employee/management, as against such orders passed in the	

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश - 3 -	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	interest of administrative exigencies of the service concerned. This position was highlighted by this Court in <i>National Hydroelectric Power Corpn. Ltd. Vs. Shri Bhagwan.</i> So far as the point raised by the petitioner regarding his personal difficulties are concerned, in the opinion of this Court, it is for the employer to look into the personal difficulties of the employee. The employer is always obliged to look into the personal grievances of his employee with a view to keep him/her in such a condition that he/she may render an excellent service to the employer and in the present facts and circumstances of the case, I am not inclined to interfere in the transfer order of the petitioner. However, looking to the grounds raised by the petitioner, a liberty is granted to him to file a detailed representation before the concerned authority and if such representation is filed within a period of 3 weeks from today alongwith a copy of this order, the competent authority shall dispose of the same within a period of 4 weeks from the date of receipt/production of representation and the result of the same shall be communicated to the petitioner. This petition stands finally disposed of. Consequently, M.W.P. No.3917/2005 also stands disposed of.	Sd/- Sunil Kumar Sinha Judge

SP/FS/2005 - 20,000

17/10/05
12/11/05